

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arlyn Rodriguez	Team: Team # 3	CCRB Case #: 201304136	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/10/2013 12:07 AM	Location of Incident: Crescent Street between Dumont Avenue and Blake Avenue	Precinct: 75	18 Mo. SOL 11/10/2014	EO SOL 11/10/2014	
Date/Time CV Reported Fri, 05/10/2013 12:12 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/15/2013 11:21 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Martinez	01369	922716	075 PCT
2. POM David Pralgo	23516	916465	075 PCT
3. POM Thomas Napolitano	29370	940682	075 PCT
4. An officer			075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robert Martinez	Abuse: Sergeant Robert Martinez stopped the car in which § 87(2)(b) was an occupant.	
B. An officer	Discourtesy: An officer acted rudely toward § 87(2)(b)	
C. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

### Case Summary

On May 10, 2013, § 87(2)(b) filed this complaint with IAB via telephone, generating IAB log number 13-20161 (encl. B1 – B2). On May 15, 2013, this case was forwarded to the CCRB (encl. B3 – B4).

On May 10, 2013, at approximately 12:07 a.m., on Crescent Street between Dumont Avenue and Blake Avenue in Brooklyn, § 87(2)(b)'s vehicle was stopped by Sergeant Robert Martinez, PO David Pralgo, and PO Thomas Napolitano of the 75<sup>th</sup> Precinct. The following allegations resulted from the officers' actions:

- **Allegation A – Abuse of Authority: Sergeant Robert Martinez stopped the car in which § 87(2)(b) was an occupant.**

§ 87(2)(g)

- **Allegation B – Discourtesy: An officer acted rudely toward § 87(2)(b)**

- **Allegation C – Discourtesy: An officer spoke rudely to § 87(2)(b)**

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

On May 17, 2013, mediation was presented to § 87(2)(b) via telephone and it was rejected.

### Results of Investigation

#### Civilian Statement

#### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a black man who is 5'11" tall and weighs 280 pounds. He has black hair and brown eyes.

#### CCRB Interview

§ 87(2)(b) was interviewed at the CCRB on May 22, 2013 (encl. C1 – C5). On May 17, 2013, § 87(2)(b) provided a phone statement to the CCRB (encl. G1), which was generally consistent with his in-person statement. Only additions and exceptions are noted below.

On May 10, 2013, at approximately 12:07 a.m., § 87(2)(b) was driving eastbound along Linden Boulevard in Brooklyn at a speed of 30 to 35 miles per hour. § 87(2)(b) drove his burgundy 1991 Infinity 245, a four door sedan, and there were no passengers in his car. The car had legally tinted windows, which were all rolled down, and the car's sun roof was open. All of the vehicle's equipment was functioning properly. § 87(2)(b)'s car did not contain any weapons or drugs.

As § 87(2)(b) approached Linden Boulevard and Crescent Street, a westbound vehicle, which he later discovered was an unmarked police car, approached the same intersection. The police car was a blue Ford Crown Victoria with license plate number § 87(2)(e), § 87(2)(b) and tinted windows. § 87(2)(b) arrived at the intersection before the unmarked police vehicle. § 87(2)(b) signaled to the left, decelerated to a speed of 15 to 20 miles per hour, and made a left on Crescent Street and Linden Boulevard. The light at the intersection was green and the streets were well-lit by street lamps. No pedestrians were in the area at the time of the incident, and no other cars were on the street except § 87(2)(b)'s car and the police car.

A few moments later, on Crescent Street, between Blake Avenue and Dumont Avenue, the police vehicle pursued § 87(2)(b) and flashed its lights. Immediately, § 87(2)(b) pulled over and three male officers dressed in casual plainclothes, identified via the investigation as Sgt. Robert Martinez, PO David Pralgo, and PO Thomas Napolitano of the 75<sup>th</sup> Precinct, exited the Crown Victoria. § 87(2)(b) described one of the officers, who was identified via the investigation as Sgt. Martinez, as a bald white man with a pale complexion and an average build who is in his late-30s to mid-40. Sgt. Martinez is 6'0" tall and weighs 180 pounds.

One of the officers § 87(2)(b) was not able to see who) approached the driver's seat as Sgt. Martinez and another officer approached the passenger's side of § 87(2)(b)'s car. § 87(2)(b) was not able to see the officer who approached the driver's side during the incident, as that officer stood in the area between the driver's seat and the backseat door. Furthermore, § 87(2)(b) was not able to see the officer who stood behind Sgt. Martinez.

The officer at the driver's side asked § 87(2)(b) why he ran a red light on Linden Boulevard. In response, § 87(2)(b) stated that he did not run a red light, as the light was green when he made the left turn. That officer asked § 87(2)(b) how he could have had a green light when the officers were the ones who had the green light. Subsequently, the officer asked § 87(2)(b) which lane he made the left turn from. § 87(2)(b) replied that he made the left turn from the left lane that was marked exclusively for left turns.

Sgt. Martinez told § 87(2)(b) that it did not matter what § 87(2)(b) thought or stated, as either way he could write him a summons. The officer at the driver's side asked § 87(2)(b) for his driver's license, which § 87(2)(b) provided immediately upon request. That officer looked at the license, then tossed it in § 87(2)(b)'s face and stated, "Stop driving like an ass." None of the officers ran a check on § 87(2)(b)'s license.

Shortly thereafter, the officers began to walk away. At that time, § 87(2)(b) asked the officer who had requested his license, "Can I have your badge number?" At that point, that officer was located near the backseat, walking to the police car, and did not make eye contact with § 87(2)(b) or otherwise acknowledge that he made the request. As all of the windows were open, § 87(2)(b) believed the officer heard the request.

In § 87(2)(b)'s phone statement, he stated that he told the officers, "Can I have a badge number?" He indicated that he did not request a badge number from any specific officers.

Subsequently, the officers entered their car and left the scene. § 87(2)(b) called 911 and reported the incident to IAB. § 87(2)(b) was not issued a summons or arrested during the incident.

### **NYPD Statements:**

#### **Subject Officer: SERGEANT ROBERT MARTINEZ**

- Sgt. Martinez was § 87(2)(b) old at the time of the incident. He is a Hispanic man who is 6'1" tall and weighs 205 pounds. He has black hair and brown eyes.
- Sgt. Martinez worked in plainclothes from 9:56 p.m. on May 9, 2013 to 6:40 a.m. on May 10, 2013. He was assigned to anti-crime for the 75<sup>th</sup> Precinct in vehicle 202. He did not recall who his partner was on the date of the incident.

### **Memo Book**

Sgt. Martinez does not have any memo book entries pertaining to this incident (encl. D3 – D4).

### **CCRB Statement**

Sgt. Martinez was interviewed at the CCRB on August 22, 2013 (encl. D5 – D6).

Sgt. Martinez did not recall this incident. Upon presenting Sgt. Martinez with a photograph of § 87(2)(b) he did not recognize him. After providing Sgt. Martinez with a synopsis of the incident, he did not recall the incident. Furthermore, Sgt. Martinez did not recall what he was doing at the time of the incident. Sgt. Martinez did not have any knowledge of PO David Pralgo or PO Thomas Napolitano, his assigned partners according to the Roll Call, conducting a traffic stop around the time of the incident. Around the time of the incident, Sgt. Martinez did not recall witnessing an officer toss a driver's license in a civilian's face nor did he recall hearing an officer tell a civilian to "stop driving like an ass." He did not recall hearing a civilian request his shield number around the time of the incident.

### **Subject Officer: PO DAVID PRALGO**

- *PO Pralgo was § 87(2)(b) old at the time of the incident. He is a white man who is 5'10" tall and weighs 240 pounds. He has brown hair and brown eyes.*
- *PO Pralgo worked in plainclothes from 10 p.m. on May 9, 2013 to 6:35 a.m. on May 10, 2013 alongside PO Thomas Napolitano and Sgt. Robert Martinez. He was assigned to anti-crime for the 75<sup>th</sup> Precinct in vehicle 202, a blue Ford Crown Victoria.*

### **Memo Book**

PO Pralgo does not have any memo book entries pertaining to this incident (encl. D7 – D8).

### **CCRB Statement**

PO Pralgo was interviewed at the CCRB on August 9, 2013 (encl. D9 – D10).

PO Pralgo did not recall this incident. Upon presenting PO Pralgo with a photograph of § 87(2)(b) he did not recognize him. After providing PO Pralgo with a synopsis of the incident, he did not recall the incident. PO Pralgo did not recall conducting a traffic stop around the time of the incident. Furthermore, around the time of the incident, he did not recall witnessing an officer toss a driver's license in a civilian's face nor did he recall hearing an officer tell a civilian to "stop driving like an ass."

### **Subject Officer: PO THOMAS NAPOLITANO**

- *PO Napolitano was § 87(2)(b) old at the time of the incident. He is a white man who is 5'10" tall and weighs 240 pounds. He has brown hair and brown eyes.*
- *PO Napolitano worked in plainclothes from 10 p.m. on May 9, 2013 to 6:35 a.m. on May 10, 2013 alongside PO David Pralgo and Sgt. Robert Martinez. He was assigned to anti-crime for the 75<sup>th</sup> Precinct in vehicle 202, a blue Ford Crown Victoria.*

### **Memo Book**

PO Napolitano does not have any memo book entries pertaining to this incident (encl. D11).

### **CCRB Statement**

PO Napolitano was interviewed at the CCRB on August 9, 2013(encl. D12 – D13).

PO Napolitano did not recall this incident. Upon presenting PO Napolitano with a photograph of § 87(2)(b) he did not recognize him. After providing PO Napolitano with a synopsis of the incident, he did not recall the incident. PO Napolitano did not recall conducting a traffic stop around the time of the incident. Furthermore, around the time of the incident, he did not recall witnessing an officer toss a driver's license in a civilian's face nor did he recall hearing an officer tell a civilian to "stop driving

like an ass.” PO Napolitano did not hear a civilian request his or his partners’ shield number around the time of the incident.

### **NYPD Documents**

#### **Fleet Services Vehicle Information**

On June 17, 2013, the CCRB received the completed request from NYPD Fleet Services for the vehicle number, make, model, and assigned command of the vehicle with NY State license plate number § 87(2)(b) (encl. H1). The car, a blue Ford Crown Victoria, was assigned to the 75<sup>th</sup> Precinct on May 10, 2013. The vehicle number was 020208.

#### **75<sup>th</sup> Precinct Roll Call – Tour 1**

The 75<sup>th</sup> Precinct Roll Call for Tour 1 from May 10, 2013 states that Sgt. Martinez, PO Pralgo, and PO Napolitano were assigned to vehicle 202 on that date (encl. E1 – E5). Sgt. Martinez was the anti-crime supervisor. PO Pralgo and PO Napolitano were assigned to anti-crime.

#### **Status of Civil Proceedings**

- As of September 10, 2013, which is 33 days past the filing deadline, § 87(2)(b) had not filed a Notice of Claim with the City of New York with regard to the incident (encl. G6).

#### **Civilian Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

#### **Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A9).

#### **Subject Officers CCRB History**

- Sgt. Martinez has been a member of the service for 15 years and there are 5 substantiated CCRB allegations against him (encl. A1 – A4):
  - In CCRB Case 201101407, a stop and a frisk allegation was substantiated against Sgt. Martinez, for which he received instructions.
  - In CCRB Case 200704280, a physical force and a threat of force allegation were substantiated against Sgt. Martinez, which the NYPD deemed unable to prosecute.
  - In CCRB Case 200205713, a discourtesy allegation was substantiated against Sgt. Martinez, for which he received command discipline A.
- PO Pralgo has been a member of service for 18 years and there is one substantiated allegation against him (encl. A5 – A7):
  - In CCRB Case 200905114, a force allegation was substantiated against PO Pralgo, for which no disciplinary action was taken.
- PO Napolitano has been a member of service for 7 years and he has one substantiated allegation against him (encl. A8):
  - In CCRB Case 201010420, a force allegation was substantiated against PO Napolitano. The NYPD disposition for this allegation is pending.

## Conclusion

### Identification of Subject Officer

Sgt. Martinez, PO Pralgo, and PO Napolitano were the only officers assigned to the vehicle § 87(2)(b) identified via its license plate number. Furthermore, § 87(2)(b)'s physical description of Sgt. Martinez was consistent with his pedigree.

### Investigative Findings and Recommendations

#### Allegation A – Abuse of Authority: Sergeant Robert Martinez stopped the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) alleged that Sgt. Martinez stopped his vehicle on Crescent Street between Dumont Avenue and Blake Avenue in Brooklyn. Sgt. Martinez, PO Pralgo, and PO Napolitano did not recall the incident.

§ 87(2)(b) provided the license plate number and make and model of the vehicle he alleged the officers who stopped him were operating at the time of the incident. NYPD Fleet Services matched the license plate number he provided with unmarked police vehicle 020208 from the 75<sup>th</sup> Precinct. According to the 75<sup>th</sup> Precinct Roll Call for May 10, 2013, Sgt. Martinez, PO Pralgo, and PO Napolitano were assigned to that vehicle on the date of the incident. During their respective CCRB interviews, Sgt. Martinez, PO Pralgo, and PO Napolitano confirmed that they were assigned to vehicle 020208. Furthermore, § 87(2)(b)'s description of one of the officers matched Sgt. Martinez's pedigree.

§ 87(2)(g)

#### Allegation B – Discourtesy: An officer acted rudely toward § 87(2)(b)

#### Allegation C – Discourtesy: An officer spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that an officer tossed his driver's license on his face and told him, "Stop driving like an ass." Sgt. Martinez, PO Pralgo, and PO Napolitano did not recall the incident.

During the incident, § 87(2)(b) was not able to see the officer who engaged in the alleged misconduct, as the officer stood on the side of the car, in the area between the driver's side and the backseat. Thus, § 87(2)(b) was not able to provide a description of that officer. As § 87(2)(b) did not see the officer, he would not be able to identify that officer via photo array.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date